

Remarks

This is intended as a full and complete response to the Restriction Action dated January 28, 2009, having a shortened statutory period for response set to expire on March 2, 2009. Please reconsider the claims pending in the application for reasons discussed below.

Claims 1-35 are pending in the application. Claims 1-7, 11-16 and 18-35 remain pending following entry of this response. Claims 1, 6 and 33-35 have been amended. Claims 8-10 and 17 have been cancelled. Applicants submit that the amendments do not introduce new matter.

Claims 1-35 are restricted under 35 U.S.C. 121 as follows:

Group I Claims 1-33 and 35, drawn to "a system for use in the detection."

Group II Claim 34, drawn to "a method of detecting or measuring at least one characteristic."

The Examiner states that:

"The inventions listed as Groups I and II do not relate to a single general inventive concept under PCT Rule 13.1 because under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: the common technical feature is an optical fiber arranged to receive light from an optical source, which allows diffusion of the gas, and a detector to detect the light modulation due to the gas diffusion. These common technical features are known in the art, see *e.g.*, *Ruddy et al.* (Applied Spectroscopy, 1990)."

Applicant provisionally elects, with traverse, the claims of Group I (claims 1-33 and 35) for examination. Applicant traverses the restriction requirement as follows.

There are two criteria for a proper requirement for restriction between patentably distinct inventions: (A) The inventions must be independent; and (B) There must be a serious burden on the examiner if restriction is required. (MPEP § 803). Applicants submit

that the Examiner has not properly established or satisfied the criteria for a proper requirement for restriction.

For example, both Group I and Group II share a common technical feature that is not found in any art offered by the Examiner. Specifically, claim 1 (of Group I) and claim 34 (of Group II) both recite the addition of reactive elements or catalysts so as to create a gas that diffuses into optical fiber. The art offered by the Examiner, however, describes how attenuation of an evanescent wave in a fluoride glass optical fiber is altered by the in-diffusion of propane into or through a cladding. See *Ruddy*, pg. 1461, 2nd col., 2nd section; Abstract, 1st sentence). Nowhere does *Ruddy* disclose the addition of reactive elements or catalysts so as to create a gas that diffuses into optical fiber as recited in the present claims.

Therefore, Applicants submit that the restriction requirement is improper and respectfully requests withdrawal of the restriction requirement.

Conclusion

Having addressed all issues set out in the Restriction Action, Applicant respectfully submits that the claims are in condition for allowance and respectfully requests that the claims be allowed.

Dated: March 2, 2009

Respectfully submitted, and
S-signed pursuant to 37 C.F.R. 1.4,

By: /Randol W. READ/ Reg. #43876
Randol W. Read
Registration No.: 43,876
PATTERSON & SHERIDAN, LLP
3040 Post Oak Blvd, Suite 1500
Houston, Texas 77056
(713) 623-4844
Attorney For Applicant